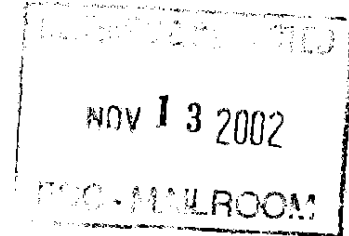




OFFICE OF ADVOCACY
U.S. SMALL BUSINESS ADMINISTRATION
WASHINGTON, DC 20416

ORIGINAL
EX PARTE OR LATE FILED

November 1, 2002



Marlene H. Dortsch
Secretary
Federal Communications Commission
445 12th Street, S.W.
W-A325
Washington, DC 20554

Re: Notice of **Ex Parte** Presentation in a Permit but Disclose Proceeding
In re Wireline Broadband Deployment (CC Dkt. No. 02-33)

Dear Ms. Dortsch:

The Office of Advocacy, U.S. Small Business Administration ("Advocacy"), by its undersigned representative and in accordance with Section 1.1206 of the Commission's rules, hereby respectfully submits this ex parte notification and written presentation for the aforementioned proceeding.

Shawne McGibbon, Deputy Chief Counsel, Eric E. Menge, Assistant Chief Counsel for Telecommunications, and Radwan Saade, Regulatory Economist, hosted a roundtable on Thursday, October 31, 2002 to discuss the small business impacts and possible regulatory alternatives to the proposed rule in the aforementioned proceeding. In attendance were Cathy Carpino of the Wireline Competition Bureau, Carolyn Fleming Williams, of the Office of Communications Business Opportunities, and J. Scott Marcus and Robert Cannon of the Office of Plans and Policy. The following non-FCC personnel were in attendance:

Joseph Albanese
Sue Ashdown
Jonathan **Askin**
Dave Baker
Mark Bayliss
Debra Berlyn
Daniel Berninger
Wendy Bluemling
Lara Chamberlain
Tom Collins
Earl Comstock
LeAnn Delaney

Sitestar
AISPA
ALTS
Earthlink
VisualLink
Consumers Voice
Pulver.com
DSL.net
NFIB
Atlantech.net
Sher & Blackwell
House Small Business Committee

W. J. Conner
10/1/02

Dharma Dill
Helen Domenici
Harold Feld
Gary Gardner
Dusan Janjic
Karen Kemgan
Bruce Kushnick
Eric Lee
Chris Magnuson
Chad Moutray
Brian Nelson
Barry Pineles
Joe Plotkin
Alexis Rosen
Kitty Sachs
Chris Savage
Mark Uncapher
Holly Wallace
John Windhausen

BroadNet
OSTP
Media Access Group
Washington ISP association
Rockbridge Global Village
Small Business Survival Committee
Tele-Truth
Lee & Associates
Peek to Peek Internet
Advocacy
Speakeasy, Inc.
House Small Business Committee
Bway
PANIX
Virginia ISP Association
Cole, Raywid, and Braverman
ITAA
Radix.net
ALTS

Attached is a summary of the discussion at the round table. Also attached, is a copy of a survey that one of the roundtable participants reference. The opinions expressed in both of these documents do not necessarily reflect the position of the Office of Advocacy.

If you have any questions regarding this filing, please contact me at 202-205-6949 or by e-mail at eric.mcenge@sba.gov.

Sincerely,



Eric E. Menge
Assistant Chief Counsel for Telecommunications

Office of Advocacy
U.S. Small Business Administration
409 Third Street, SW
Washington, DC 20416

202-205-6533

cc:

The Honorable Michael K. Powell
The Honorable Kathleen **Q.** Abernathy
The Honorable Michael J. Copps
The Honorable Kevin J. Martin
Jeffrey Carlisle
Cathy Carpino
Robert Cannon
J. Scott Marcus
Carolyn Fleming Williams

Summary of the Office of Advocacy's Wireline Broadband Deployment Roundtable Oct. 31, 2002

The following is a summary of the most salient points made at Small Business Roundtable. This summary is not a word-for-word transcript of the roundtable. The opinions expressed during the roundtable are not necessarily those of the Office of Advocacy.

Bruce Kusnick

- The FCC is limiting competition, as 1,500 ISPs will go out of business.
- Tele-Truth has recently conducted a survey which shows:
- 60% of ISPs offer broadband;
- of those, 40% are relying on CLECs, 30% relying solely on ILECs, other 30% relying on both; and
- The 40% that don't offer broadband were priced out of the market.
- ISPs are driving force of DSL and want to offer broadband.
- ISPs are essential to the deployment of broadband and limiting their ability to compete may cause a second telecom crash.
- FCC should enforce current laws.

John Windhausen

- Congress said the FCC should promote competition.
- Competition leads to broadband deployment and lower prices.
- Single biggest beneficiary for Telecom Act of '96 is small business

Harold Feld

- ISPs cannot cross-compete.
- Monopoly providers can control and influence commerce.
- This control of commerce affects non-commercial organizations and small businesses

Mark Uncapher

- There is extensive deployment of broadband; need to **look** at the take-up rate.
- Large number of ISPs help the take-up rate.
- Losing small ISPs will slow deployment.
- There is 70% availability of broadband.
- Diversity will be hurt in the name of increasing deployment.
- There is no diversity when left with a duopoly.

Dave Baker

- 85% broadband penetration from FCC numbers

Scott Marcus

- Yes, 80% of homes have access to wireline broadband.

Joe Plotkin

- Not all broadband is equal; cable is not first choice for business because of security issues.
- Enhancements to broadband are necessary, such as symmetric DSL from small ISPs.

Earl Comstock

- Goal of the FCC focuses on the two duopoly providers
- Consumers have paid for these facilities.

Chris Magnuson

- 50% of people who hear the price for broadband don't want it.

Joe Albanese

- Encouraging monopoly providers will **not** speed deployment of broadband.

Debra Berlyn

- The goal of the FCC here is regulatory fairness between wireline and cable.
- There is no competition for the patronage of small businesses.

Alexis Rosen

- Lack of competition in broadband arena.
- We need to discuss what we are going to do about the proposed rule.

Chris Savage

- FCC is pursuing goals in good faith but with bad information.
- What is competition?
- What counts as real competition?
- What are the new services available? Who is the source of new technology?
- Big incumbents will not satisfy the FCC's goal.
- Hard to argue about competition when ILEC share of UNE-P is 95 percent.

Barry Pineles

- FCC should look at long distance as example: where no one person can use access to customer as leverage.
- Necessary for broadband deployment to have similar access to customers.

Earl Comstock

- Wireless is not that same as wireline
- ILECs have to share customers
- The access to the customer is absolutely necessary for competition.

Barry Pineles

- Multiple competitors lead to market penetration and innovation.
- Two paradigms for competition: (1) facilities based, and (2) resell.
- You don't get multiple facilities-based competitors when the costs are decreasing.

Joe Albanese

- Long distance model won't work in an ISP market.

Bruce Kushnick

- There is cross subsidization between Bell companies and ISP affiliates

Alexis Rosen

- FCC has been given strong direction from the top.

Sue Ashdown

- The FCC should enforce rules **not** eliminate them.

Dusan Janjic

- ISPs are still struggling to provide services.
- Removing competition will lead to monopoly.

John Windhausen

- Reclassification affects all ISPs and facilities-based CLECs.

Alexis Rosen

- Broadband is not an information service. It is a telecom service.

Brad Ramsey

- FCC has misread the statute and is raising the litigation burden.
- The proposed rule is a novel interpretation of the statute.

Chris Magnuson

- The FCC is trying to promote facilities-based competition.
- Forcing facilities-based competition is misguided. Let the market to it

Earl Comstock

- Definitional change undermines entire Act; it changes every single regulation.
- Incumbents can make minor adjustments to services and claim that they are an information service. This undermines competition and the purpose of the Act.

Chris Savage

- Business logic is bundling is good
- This classification moves choice of bundling from market to a few players.
- FCC can require cost-based point-to-point communication.

Earl Comstock

- Nothing in Act inhibits bundling

Jonathan Askin

- Goal of inter-modal competition is not good for large wireline incumbents.
- Last mile bottleneck won't be replaced.

Joe Plotkin

- Symmetric DSL is good for small businesses.

Joe Albanese

- Instead of making phone companies like cable companies, it should be the other way.

Harold Feld

- Look at big mergers where the FCC's position has been that competition prevents the controllers of gateways from leveraging that position.

John Windhuasen

- Little evidence exists that the FCC needs to do anything on this subject.
- The purpose of the FCC is to level the playing field between cable and telephone. This is unnecessary, as there is virtual similarity between the Bells and cable.
- The FCC is changing wholesale obligations.
- The FCC has the option of using its forbearance authority.

Jonathan Askin

- Cable companies have often classified themselves as LECs.
- FCC could have treated them as CLECs and forbore enforcement of the rules against them.

Earl Comstock

- The FCC's determination in the cable proceeding puts it in an awkward position.
- The purpose of the Act is to include sharing; not prohibit it.
- **SBA** should recommend FCC enforce the law and require sharing and have all LECs (including cable) treated evenly.

Tom Collins

- Carry out what Act required and enforce interconnection.
- Bells have tried to undermine the Act.

Sue Ashdown

- Deregulation on pricing has marginalized ISPs.

Wendy Bluemling

- Choice of ISP is important

Dan Berninger

- FCC is trying to address the needs of the investors of the Bell companies.

Barry Pineles

- Maybe we should let the Bell company provide broadband under Title 6? They can apply for franchises and share revenue with local governments.
- The FCC needs to have small business customers get in touch with them.

Chris Savage

- The FCC should drive down and grind down costs of DS1 service.
- FCC can use TELRTC to squeeze down the price to encourage the market to innovate and reduce costs.

Joe Plotkin

- Lower prices on DSI service is necessary for businesses to thrive.
- More and more businesses need connectivity, not dial-up.
- Bell companies should be made to play by the rules.

Dusan Janjic

- We were offering DSL 5 years before.
- Cannot forget the rural markets.
- We use satellite and wireless services *to* reach some rural areas.

John Windhausen

- Subsidies to rural areas will encourage the deployment of broadband

Dan Gregory

- Bells have elevated costs for their loops.
- The FCC should require Bells to offer loops for resale.

Bruce Kushnick

- The FCC has violated the RFA.

Alexis Rosen

- The FCC is in an adversarial role currently.

Joe Plotkin

- The FCC should consider opening universal service for broadband in rural areas.

Earl Comstock

- In rural areas, competitors will need access to universal service.

Joe Plotkin

- The FCC should hold a public hearing with customers on broadband services

Tom Collins

- The FCC had no justification for changing classifications.

Holly Wallace

- Redefinition will allow Bells to control Internet service **providers**

Jonathan Askin

- OCBO has obligation to take a stronger stake.
- Chairman is oblivious on the needs of small business
- **SBA** and OCBQ should do a combined forum.